

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PHILIP DESTEFANO and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Miami, FL

*Docket No. 01-1870; Submitted on the Record;
Issued April 11, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's compensation benefits effective August 12, 2000.

Appellant, a 51-year-old letter carrier, filed a notice of traumatic injury alleging that on June 25, 1998 he developed low back pain due to his federal employment. The Office accepted appellant's claim for lumbar strain on January 30, 1999 and later expanded appellant's claim to include L4-5 and L5-S1 degenerative disc disease with radiculopathy. In a letter dated June 8, 2000, the Office proposed to terminate appellant's compensation and medical benefits on the grounds that he had no continuing disability nor medical residuals related to his accepted employment injury. By decision dated July 18, 2000, the Office terminated appellant's compensation and medical benefits effective August 12, 2000.

The Board finds that the Office met its burden of proof to terminate appellant's compensation benefits effective August 12, 2000.

Once the Office accepts a claim, it has the burden of proving that the disability has ceased or lessened in order to justify termination or modification of compensation benefits.¹ After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.² Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.³ To

¹ *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

² *Id.*

³ *Furman G. Peake*, 41 ECAB 361, 364 (1990).

terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which requires further medical treatment.⁴

In this case, appellant's attending physician, Dr. Jonathan Hyde, an orthopedic surgeon, completed a report on May 12, 2000 and found that appellant could return to full duty. Dr. Hyde stated that he reviewed a videotape supplied by postal inspectors which demonstrated that appellant had absolutely no limitations. He stated that appellant could get out of a parked vehicle with no difficulty, could carry a cooler with his left hand for a distance without outward evidence of back pain and that appellant did not demonstrate a limp. Dr. Hyde also found that appellant could get up and down from a squat without assistive devices or holding on, that he could lift his arms over his head and shift his weight from side to side with no difficulty. Dr. Hyde stated that appellant could and should return to full-work duty.

In an additional report dated June 1, 2000, Dr. Hyde noted on examination that appellant demonstrated a limp, apparent giving away of his left leg and the inability to rise from a squat without holding on to something. He concluded that appellant demonstrated symptom magnification. Dr. Hyde stated that he had no treatment options for appellant as "it appears he is fully resolved from this injury with symptom magnification." He concluded that appellant could return to full duty working eight hours a day.

As there is no medical evidence in the record supporting appellant's continued disability for work nor medical residuals resulting from his accepted employment injury, the Board finds that the Office met its burden of proof to terminate appellant's compensation benefits.⁵

⁴ *Id.*

⁵ Appellant submitted additional evidence on appeal. The Board's review is limited to the evidence that was before the Office at the time of its final decision. The Board therefore, cannot consider this evidence. 20 C.F.R. § 501.2(c).

The July 18, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
April 11, 2002

Alec J. Koromilas
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member